IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

THURSDAY, THE 18TH JANUARY 2007 / 28TH PAUSHA 1928

WP(C).No. 2045 of 2007(R)

PETITIONER:

RETNAMMA,
SANDHYA CASHEW FACTORY, THUVAYOOR NORTH,
MANAKALA P.O., ADOOR.

BY ADV. SRI.S.SANTHOSH KUMAR
SRI.C.ARUN

RESPONDENTS:
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1. THE INTELLIGENCE OFFICER,
COMMERCIAL TAXES, SQUAD NO.I, KOLLAM.

2. THE INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, PATHANAMTHITTA.

BY GOVERNMENT PLEADER SRI.SOJAN JAMES

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R.RAMAN, J.

W.P.(C) NO. 2045 OF 2007

Dated this the 18th day of January, 2007

J U D G M E N T

Exhibit P3 is under challenge. The petitioner has entrusted the goods to the parcel agency for delivery to consignee situated at Punjab. While goods were lying in the parcel office, inspection was conducted and 47(2) notice was issued under the KVAT Act. The contention of the petitioner is that the defects pointed out in Exhibit P3 notice is merely technical and at any rate the petitioner is entitled to correct the same before actual transport from the parcel office to the destination of the consignee. As such there is no warrant for detaining the goods and according o him he has already cured the defects.

2. The learned Government Pleader appearing on behalf of the State on the other hand would submit that the entrustment of the goods with the parcel office is with a view to transport the goods. Once the goods have moved from the place of business of the petitioner to the transporting agency, the goods should be deemed to be under transport. However, a final decision could not be rendered at this state. It is open to the authorities to

complete the proceedings under 47(2).

3. In the facts and circumstances, however the goods detained will be released to the petitioner on condition that the petitioner pays 50% of the amount demanded under Exhibit P3 being the tax amount and furnish a self bond for the balance amount without sureties. Enquiry shall be completed in the due course.

Writ petition is disposed of as above.

P.R.RAMAN, JUDGE

Rp